

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re JDS UNIPHASE CORPORATION
SECURITIES LITIGATION

No. C 02-1486 CW
ORDER RE: JURY
WAIVER

Defendants have filed a further report regarding bifurcation of trial and related issues. In that report, Defendants state that they

are willing to waive their right to a jury on the express condition that any claims procedure that follows will take place after a reasonable opportunity for discovery and will include the right to have any claims of \$1 million or more determined through an adversary proceeding that includes, at minimum, the right to present evidence and to examine and cross-examine witnesses.

Defendants' Filing at 2. Plaintiffs have filed a response. The Court will not accept a waiver that is conditioned on an unspecified future discovery request. Further, if Defendants

1 intend to condition their waiver on future procedures, they need to
2 reach an agreement with Plaintiffs regarding those procedures or
3 move for them.

4 The parties shall meet and confer to determine whether they
5 can reach agreement regarding an unconditional waiver of jury.

6 If they cannot agree, Defendants shall file a motion for the
7 discovery and procedures that they seek by 5:00 PM on Thursday,
8 October 18 and Plaintiffs shall file an opposition by 12:00 on
9 Friday, October 19. In these papers, Defendants shall include a
10 proposal regarding the amount of time they intend to reserve for
11 their individual damages defense in the event that they elect not
12 to waive their right to a jury on this issue and Plaintiffs shall
13 respond, including a notice of the time they intend to reserve for
14 rebuttal.

15 In their report, Defendants also state that they will waive
16 their right to a jury trial on the question of proportionate
17 liability. Plaintiffs respond that they continue to assert their
18 right to a jury on this issue. Therefore, the question of
19 proportionate liability will be tried to the jury.

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21 IT IS SO ORDERED.

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23 Dated: 10/17/07



24 CLAUDIA WILKEN
25 United States District Judge
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